

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2019

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.20368 of 2009

and

M.P.No.2 of 2009

A.Simonraj

..Petitioner

Vs.

1.Revenue Divisional Officer cum
Ponneri Executive Magistrate,
Ponneri (Taluk),Thiruvellore (District)

2.Tahsildar,
Ambattur Taluk,
Thiruvallur District

3.D.Pappathi

4.Balaji

5.Rajeswari
Rep.by her
Power of Attorney Agent
G.Venu

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking issuance of a writ of Certiorari to call for the records of the impugned order passed by the 1st respondent order dated 06.11.2007 bearing Na.Ka.No.3484/07/A2 and to set aside the same.

For Petitioner : Mr.Haja Nazirudeen (Senior Counsel)
for Mr. P.Haribabu

For R1 & R2 : Mr.B.Anand
Government Advocate

For R3 & R4 : Mr.V.Raghavachari

For R5 : Mr.R.Manoharan

O R D E R

Heard Mr.Haja Nazirudeen (Senior Counsel) for petitioner and Mr.B.Anand learned Government Advocate for 1st and 2nd respondents, Mr.V.Raghavachari learned counsel for 3rd and 4th respondents and Mr.Manoharan learned counsel for the 5th respondent and perused the materials available on record.

2.The petitioner has come forward with the Writ petition for issuance of writ of Certiorari to call for the records of the impugned order passed by the 1st respondent order dated 06.11.2007 bearing Na.Ka.No.3484/07/A2 and to set aside the same.

3. According to the petitioner, he is absolute owner of the property to an extent of 2000 sq ft. in survey No.166 at Korattur village by purchased of sale deed dated 26.06.2006 on the file of the Sub Registrar Officer, Villivakkam. The 3rd respondent purchased plot No.19 in the lay out in Anna nagar comprised in survey No.164/1A, part 1B, 165P, 166/1,2, 167,1,2,3, 168, 169, 171/1,3, 221, 222/1.2 and has filed a Civil suit in O.S.No. 46 of 2006 on the file of the Sub Court Poonamallee against the petitioner's vendor for declaration of title in respect of Plot No.19.

4.The learned senior counsel appearing on behalf of the petitioner would contend that the first respondent has no jurisdiction to cancel the patta issued in favour of the petitioner's vendor in a proceedings initiated under Section 145 of Cr.P.C.

5. Mr.V.Raghavachari Learned counsel appearing for the 3rd and 4th respondents would submit that the order passed by the first respondent was challenged by the petitioner's vendor in CrI.R.C.No.1872 of 2007, eventually the Criminal Revision Petition was dismissed. It is the submission of the learned counsel for the 3rd and 4th respondents that the petitioner has no locus standi to file this Writ Petition.

6.In the case on hand, indisputably, there is a rival claim over the property in Survey No.166 of Korattur village. The 3rd respondent had already filed the suit in O.S.No.46 of 2006 for declaration of title over the property and it was decreed by the Civil Court on 18.06.2009. While disposing of the CrI.R.C.No. 1872 of 2007, this Court has expressed its opinion that this dismissal would be subject to the decision of the Civil Court in O.S.No.46 of 2006. The learned counsel for the petitioner is not in a position to state whether any appeal has been preferred as against Judgment and decree in O.S.No.46 of 2006.

7. Be that as it may, since this Court is of the opinion that the 1st respondent has no authority to cancel the patta issued in favour of the petitioner's vendor, in a proceeding initiated under Section 145 of Cr.P.C the order impugned in this petition is set aside and the Writ petition is allowed. The official respondent is directed to transfer the patta on the basis of the Civil Court Decree after it reaches finality.

8. Accordingly, the Writ Petition stands allowed. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Revenue Divisional Officer cum
Ponneri Executive Magistrate,
Ponneri (Taluk), Thiruvellore (District)

2. The Tahsildar,
Ambattur Taluk,
Thiruvallur District.

+1 cc to M/s.V.Raghavachari, Advocate Sr.No. 69617

+1 cc to M/s.P.Haribabu, Advocate SR.No.69267

+1 cc to The Government Pleader Sr.No.69715

AKM/15.10.19/3P-6C /

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